IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 6355 of 2005
Date of decision 7.5.2007

Hans Raj Arora .. petitioner

Versus

District Red Cross Society, Jalandhar and another .. Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE RAJESH BINDAL

PRESENT: Mr.Deepak Arora, Advocate for the petitioner

M.M.Kumar, J.

Challenge in this petition filed under Article 226 of the Constitution is to the order dated 6.4.2005 (Annexure P.7) retiring the petitioner prematurely on his attaining the age 55 years. The petitioner has claimed that there is no legal sanctity which could be attached to the Committee which had ordered his premature retirement. He has further claimed that there is nothing on the record warranting conclusion that the petitioner has become a dead-wood or he could be otherwise regarded as an employee of doubtful integrity. He has emphasised that merely because on 21.8.1998 some charges were proved against the petitioner would not constitute a basis for the respondents to retire him prematurely.

In the written statement filed by the respondents, the stand taken is that the Sub Committee held the meeting on 20.12.2004 and it was found on the basis of the record that the allegation of embezzlement of Rs. 83,000/- levelled against the petitioner was proved and on that basis he was awarded the punishment of reduction to lower scale in the basic pay @ Rs. 5000/- p.m. and also recovery amounting to Rs.83,000/-was also ordered against him. The proceedings of the Committee have been placed on record

as Annexure R/1 and the case of the petitioner has been dealt with as under:

> " He was appointed as an Accountant in Medical Store on 26.8.81. He has completed 23 years of service. His date of birth is 6.4.1950. His case was examined by the Committee. During his service, a physical verification of the stock in medical store was done on 21.8.98 and embezzlement to the tune of Rs.1.75 lacs was noticed. Sh. Hans Raj was found having embezzled an amount of Rs.83,000/- during discharge of his duties in the medical store run by District Red Cross Society. Accordingly, he was placed under suspension and served charge sheet. An enquiry was got conducted by the then ADC cum Senior Vice President and allegations of embezzlement of Rs.83000/- with regard to stock in the medical store were established.
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> Subsequently after conducting enquiry in the case of Sh. Arora, he was inflicted a punishment of reduction to a lower stage in the basic pay @ Rs.5000/- p.m. and of recovery to the tune of Rs.83000/- from him. Besides this, complaints were received from wholesale dealers against Shri Arora for demanding commission from them for placing orders for purchase of medicines required for medical stores run by the Red Cross Society, not only this even the work and conduct of Sh. Arora was not found satisfactory in discharging his duties with regard to District Child Welfare Council as complained by the Hony. Secretary and members of CWC. On perusing of overall work and conduct of Sh. Hans Raj Arora, it has been inferred that integrity of said official is doubtful. He has not

only caused a huge financial loss to the Red Cross Society but also caused an irreparable damage to the image of the society by indulging in undesirable acts while discharging official duties.

Due to his doubtful integrity, it is found that continuation of Sh. Arora in service is not in the interest of Red Cross Society beyond the age of 55 years.

So, it is recommended that he should be prematurely retired from service either by giving him three months notice or paying him three months pay in lieu of notice."

After hearing learned counsel for the parties, we are of the considered view that the petitioner does not deserve to continue in service as there is no legal infirmity in the impugned order dated 6.4.2005 retiring the petitioner prematurely (Annexure P.7). It is well settled that the old record of the employee is required to be gone into at the stage of considering his case for retention in service at the age of 50 and 55 years. In that regard reliance can be placed on a judgement of the Hon'ble Supreme Court in the case of Badri Nath v. State of Tamil Nadu (2000)8 SCC 395 and State of Punjab v. Gurdas Singh (1998)4 SCC 92. Thus there is no merit in the writ petition and the same is dismissed.

(M.M.Kumar)
Judge

(Rajesh Bindal)
Judge

7.5.2007
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